

*Note: Please submit a separate comment for each proposed class.*

*This is a Word document that allows users to type into the spaces below. The comment should be no more than one page in length (which may be single-spaced but should be in at least 12-point type). The italicized instructions on this template may be deleted.*

## **Short Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201**

*Submitted by:*

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### **Item 1. Commenter Information**

iFixit is an international, open-source, online repair manual for everything. Our mission is to provide people with the knowledge to make their things work for as long as possible. Because we believe that repair saves money, fosters independence, and protects the planet.

iFixit is global community of makers, hardware hackers, fixers, tinkerers, and repair professionals. In 2014, the iFixit community taught repair to over 40 million people from almost every country in the world. The strongly collaborative group has published over 10,000 crowd-sourced repair guides on iFixit.com. This massive, free resource has helped people fix everything from mobile phones to game consoles, toys to musical instruments. iFixit also stands firm in its support of the tinkerers and independent repair professionals in our community. We believe that owners should have the right to repair, modify, and hack the things that they own.

### **Item 2. Proposed Class Addressed**

PRIVACY ACT ADVISORY STATEMENT Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted under 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this submission. Please keep this statement and refer to it if we communicate with you regarding this submission.

## Proposed Class 11: Unlocking – wireless telephone handsets

### Item 3. Statement Regarding Proposed Exemption

114,000 people—and a united front of consumer advocates, digital rights crusaders, and recycling groups—[registered their displeasure](#) with the White House when unlocking was made illegal previously. The White House agreed and so did two houses of congress. In August, President Obama signed the [Unlocking Consumer Choice and Wireless Competition Act](#)—a law ensuring that companies and consumers have the right to unlock their own cell phones. Now, just a few months later, the American people [are petitioning](#) the Copyright Office for that same right yet again.

The American people and Congress have already demonstrated that cell phone unlocking has nothing to do with piracy and nothing to do with copyright. Unlocking a cell phone simply unlocks another layer of functionality. It allows an owner to move a locked phone to a different carrier—even without the carrier’s permission.

The programmatic “hack” is especially useful for travelers; they can avoid exorbitant international roaming charges by popping a pre-paid, local SIM chip into their phones. It’s also useful for consumers who love their phones, but hate their carriers. At the end of their contracts, they can simply move the phone to a carrier of their choice. Critically, electronics recyclers also use unlocking to extend the usable life of a cell phone, rather than shredding it down for scrap. Unlocked cell phones are more desirable and more versatile on the resale market.

While unlocking legislation proved to be [surprisingly contentious](#), consumers and business owners made their case in front of

Congress and the White House. The Unlocking Consumer Choice and Wireless Competition Act [passed through Congress unanimously](#), and went on to an uneventful presidential signing. But thanks to the DMCA, this issue is on the table once again—demonstrating the utter failure of the exemption process to deal with the implications of copyright issues in modern technology.

Unsurprisingly, that doesn't sit well with iFixit. And it doesn't sit well with a lot of other people.

“Section 1201 has not been used as Congress envisioned,” [Corynne McSherry](#) of the Electronic Frontier Foundation (EFF) said during a September [congressional hearing on the DMCA](#). “Indeed, the past year has seen an object lesson in the profound flaws of Section 1201, as consumers discovered to their dismay that merely unlocking their phones might violate the DMCA. They also discovered that the DMCA puts an unelected official in charge of regulating their personal devices. And they were not happy.”

Also not happy are the business owners who actually perform unlocking services as part of their livelihoods. I talked to Craig Boswell of [Hobi International](#), a cell phone recycling and refurbishment company. He told me that during the two years that cell phone unlocking was illegal, prices for phones that could not be unlocked dropped by about \$20 per unit. Hobi was one of the lucky ones. Because they work closely with carriers, they were able to adapt and adjust their business model, “but it hurt the top line number,” Boswell told me. For companies that unlock in bulk, the blow would be much more profound.

“Section 1201's ban on circumvention substantially harms recyclers and consumers and lowers the value to consumers of their purchased phones while raising the cost of reusing those

phones through a secondary market,” the [EFF’s new exemption appeal](#) to the Librarian of Congress reads. “Without the ability to lawfully circumvent technological measures preventing the unlocking of these phones, recyclers cannot efficiently and economically recover and process these devices.”

We urge the Office of Copyright to grant the exemption on cell phone unlocking. Because consumers should be able to use a cell phone they’ve legally purchased in whatever ways best suits their own particular needs. We also support unlocking because this is a green issue. Recyclers and refurbishers shouldn’t face an additional barrier to reuse. They should be able to keep cell phone on the market and away from landfills and shredders for as long as possible.